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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,150	07/17/2003	Robert W. Childers	DI-5828	5656

29200 7590 03/08/2006

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EXAMINER

SIRMONS, KEVIN C

ART UNIT	PAPER NUMBER
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3767

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/624,150		CHILDERS ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Kevin C. Sirmons		3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) 31-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/9/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

It is requested that applicant provide an English Translation for the flowing IDSs:  
WO00/20052, 10-85324, SU 1344362 and WO97/47337.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over  
Jacobsen et al U.S. Pat. No. 5,141,493 in view of Treu et al U.S. Pat. No. 6,254,567.

Jacobsen discloses a fluid circuit in fluid communication with the catheter thereby defining a fluid loop (4); a supply of dialysate (48) coupled to the fluid circuit; a cyclor (18) that pumps the dialysate into the fluid circuit at a feed rate and circulates the dialysate at a circulation rate along the fluid loop to remove a therapeutic effective amount of solutes and excess water from the patient (1A); and a discharge fluid path (path to drain bag) coupled to the fluid path to the fluid loop through which the therapy fluid is drained from the fluid circuit at a discharge rate that is less than the circulation rate allowing the therapy fluid to be circulated a plurality of times (40) along the fluid loop prior to discharge. Jacobsen does not disclose a catheter having an inflow lumen and an outflow lumen.

However, Treu discloses a catheter (col. 6, lines 5-8) having an inflow lumen and an outflow lumen. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Jacobsen with the catheter as taught by Treu for delivering and withdrawing fluids from the body.

As to claims 2-5 and 12, Jacobsen does not disclose the various rates as claimed. However, it would have been obvious to one of ordinary skill in the art to vary the rates of pump(s) and vary the opening of the valve(s) to reach the desired effective flow rate (see Jacobsen summary of invention).

As to claims 6-7, (48); as to claims 8-9, (figs. 1A and 1B); as to claim 10, (68, 32, 20, 24); as to claim 11, (figs. 1A and 1B); as to claim 13, see above rejection and (a chamber (the supply (48) is within a bag); as to claims 14-16, (see above rejections); as to claims 17-18, (figs. 1A and 1B); as to claim 19-23, (see above rejections); as to claim 24, see above rejections and (cleaning device 32, 68, 78, 112 and claim 5); as to claim 25, (figs. 1A and 1B); as to claim 26, (16); s to claims 27-28, (see filters); as to claims 29 and 30, (see above rejections).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin C. Sirmons whose telephone number is 571-272-4965. The examiner can normally be reached on Monday-Friday 6:30-4:00 ALT FRI.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin C. Sirmons  
Primary Examiner  
Art Unit 3767  
3/3/06

Handwritten signature of Kevin C. Sirmons in cursive script.